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INTELLECTUAL PROPERTY LAW  
(PATENT, BIOTECHNOLOGY, COMPUTER,  
TRADEMARK & TRADE SECRET LAW)

August 9, 1999

FACSIMILE COVER SHEET

PLEASE DELIVER TO: Examiner C. Sayala

COMPANY: U.S. PTO/ART UNIT 1761

FACSIMILE NUMBER: (703) 305-3602

NUMBER OF PAGES (COUNTING COVER SHEET): 4

FROM: Benjamin A. Adler

MESSAGE: Please deliver the attached to Examiner Sayala. Attached is a Response to Notification of Defective Notice of Appeal or Defective Brief for *Methods of Treating Autoimmune Diseases Using Type One Interferons*; Serial No: 08/946,710. Brod, S., D5716CIP4)

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cc: BAA.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Brod, S.

FILED: October 8, 1997

SERIAL NO.: 08/946,710

FOR: Methods of Treating  
Autoimmune Diseases Using  
Type One Interferons

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ART UNIT: 1761

EXAMINER:  
Sayala, C.

DOCKET: D5716CIP4

Assistant Commissioner of Patents  
BOX AF  
Washington, D.C. 20231

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I certify that this response was transmitted via Facsimile to  
Examiner C. Sayala at the Patent Office on the date indicated below.

9 Aug 1999

Date

Benjamin Aaron Adler

Benjamin Aaron Adler, Ph.D., J.D.

RESPONSE TO NOTIFICATION OF DEFECTIVE  
NOTICE OF APPEAL OR DEFECTIVE BRIEF

Dear Sir:

Responsive to the Notification of Defective Notice of  
Appeal or Defective Brief mailed July 27, 1999, please enter the  
following remarks. Reconsideration of the Appeal Brief filed June  
23, 1999 is respectfully requested.

## REMARKS

The Appeal Brief filed June 23, 1999 has been declared defective. The Notification states that the three copies submitted June 23, 1999 are substantially different from a fourth copy submitted December 1, 1998, and it is not clear which copy should be considered.

The first Appeal Brief was actually filed March 12, 1999 in furtherance of the Notice of Appeal filed December 1, 1998. However, prosecution was reopened because this Appeal Brief did not address issues relating to 35 U.S.C. §101 double patenting and judicially created doctrine of obviousness-type double patenting. Thus, the first appeal brief (filed March 12, 1999 in response to the Notice of Appeal filed December 1, 1999) was not a defective appeal brief.

A second Notice of Appeal was filed June 18, 1999 and the second Appeal Brief was filed on June 21, 1999. This Appeal Brief addresses the double patenting and obvious type double patenting issues. As discussed with Examiner Sayala per telephone conversation of July 30, 1999, this is the Appeal Brief which is correct and should be considered. The Applicant respectfully

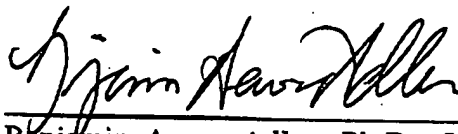
requests that the rejection of the Appeal Brief filed on June 23, 1999 as defective be withdrawn.

This is intended to be a complete response to the Notification of Defective Notice of Appeal or Defective Brief mailed July 27, 1999. If any issues remain outstanding, the Examiner is respectfully requested to telephone the undersigned attorney of record for immediate resolution.

Respectfully submitted,

Date:

9 Aug 1999



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